UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	 MDL No. 1456 Master File No. 01-12257-PBS Subcategory Case No. 06-11337
	/) Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)
State of California, ex rel. Ven-A-Care of the Florida	
Keys, Inc. v. Abbott Laboratories, Inc., et al.)
Case No: 1:03-cv-11226-PBS)
)

STATE OF CALIFORNIA'S MOTION FOR DISMISSAL OF SCHERING-PLOUGH CORPORATION AND WARRICK PHARMACEUTICAL CORPORATION

Pursuant to Fed. R. Civ. P. 41(a)(2), by and through its counsel, the State of California moves for an Order of the Court dismissing defendants Schering-Plough Corporation and Warrick Pharmaceutical Corporation (the "Warrick Defendants") from the above-entitled action. In support of this motion, the parties state as follows:

- 1. The Warrick Defendants are named as defendants in the above-referenced action.
- 2. The State of California has entered into a Settlement Agreement and Release ("Agreement") with the Warrick Defendants.
- 3. Subject to, and as expressly limited by the terms of that Agreement, all claims asserted by the State of California against the Warrick Defendants in the above-entitled action are hereby dismissed with prejudice.
 - 4. The parties agreed that each party will bear its own costs.
- 5. The dismissal has no effect on the State of California's claims or allegations against any party other than the Warrick Defendants in this action.

6. The Warrick Defendants consent to this motion, as does the relator Ven-A-Care.

WHEREFORE, the parties jointly request that the Court enter an Order dismissing Schering-Plough Corporation and Warrick Pharmaceutical Corporation with prejudice. A proposed Order of dismissal is attached.

Dated: December 11, 2009 Respectfully submitted,

EDMUND G. BROWN JR. Attorney General for the State of California

By: __/s/ Nicholas N. Paul_

NICHOLAS N. PAUL CA State Bar No: 190605 Supervising Deputy Attorney General Bureau of Medi-Cal Fraud and Elder Abuse Office of The Attorney General 1455 Frazee Road, Suite 315 San Diego, California 92108 Telephone: (619) 688-6099 Fax: (619) 688-4200

Attorneys for Plaintiff, STATE OF CALIFORNIA

CERTIFICATE OF SERVICE

I, Nicholas N. Paul, hereby certify that on December 11, 2009, I caused a true and correct copy of the foregoing, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Nicholas N. Paul

NICHOLAS N. PAUL Supervising Deputy Attorney General